

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH WILLNER by his next friend MOSHE
WILLNER, on behalf of himself and all others
similarly situated,

Plaintiff,

- against -

12-cv-1955 (RRM) (RER)

NOTICE OF MOTION FOR
CLASS CERTIFICATION AND
FOR STAY OF MOTION FOR
CLASS CERTIFICATION

ROBERT DOAR, as Commissioner of the New York
City Human Resources Administration/Department of
Social Services, ELDERPLAN, INC., NIRAV R.
SHAH, M.D., as Commissioner of the New York
State Department of Health, and ELIZABETH R.
BERLIN, as Executive Deputy Commissioner of the
New York State Office of Temporary and Disability
Assistance,

Defendants.

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PLEASE TAKE NOTICE, that upon the accompanying declarations of Michael
Korsinsky and Moshe Willner, both dated May 29, 2012, any further papers or argument to be
submitted by Plaintiff at a later date, and upon all pleadings heretofore had herein, Plaintiff
Joseph Willner, by his next friend Moshe Willner, individually and on behalf of two classes of
similarly situated individuals, by his attorneys Korsinsky & Klein, LLP, will move this Court
before Roslynn R. Mauskopf, U.S.D.J., at the United States Courthouse, 225 Cadman Plaza East,
Brooklyn, New York 11201, at a date and time to be determined by the Court, for an order:

(i) granting Plaintiff's motion for class certification pursuant to rules 23(a) and

23(b)(2) of the Federal Rules of Civil Procedure of the following classes:

All New York City recipients of Medicaid benefits for home care who
have had or will have had their Medicaid benefits reduced or discontinued
but to whom notice of such reduction or discontinuance was not or will
not be sent at least ten days before the reduction or discontinuance went or
goes into effect.

and

All New York City recipients of Medicaid benefits for home care who have had or will have had their Medicaid benefits reduced or discontinued who receive notices advising of the availability of an “external appeal” as an alternative to a fair hearing.

(ii) staying the instant motion for class certification and delaying the Court’s consideration and ruling on this motion until the parties have had sufficient time for necessary discovery and granting to Plaintiff the right to amend this motion using the additional information uncovered in discovery; and

(iii) for such other and further relief as the Court deems just and proper.

Dated: Brooklyn, New York
May 29, 2012

KORSINSKY & KLEIN, LLP

By: /s/
Michael Korsinsky
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Attorneys for Plaintiff and the Class

To: Eric Porter
Assistant Corporation Counsel
NEW YORK CITY LAW DEPARTMENT
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Attorneys for Defendant ROBERT DOAR, as
Commissioner of the New York City Human
Resources Administration/Department of
Social Services

LEWIS BRISBOIS BISGAARD & SMITH
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Attorneys for Defendant ElderPlan, Inc.

NIRAV R. SHAH, M.D., as Commissioner of
the New York State Department of Health
Corning Tower, Room 2438
Empire State Plaza
Albany, New York 12237
Defendant

ELIZABETH R. BERLIN, as Executive
Deputy Commissioner of the New York State
Office of Temporary and Disability Assistance
OTDA Office of Administrative Hearings
14 Boerum Place
Brooklyn, New York 11201
Defendant